IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WP(C).No. 19640 of 2007(K)

PETITIONER:

CMC CONVENT,
BETHEL P.O., UPPUKANDAM, IDUKKI DIST.,
REP. BY ITS MOTHER SUPERIOR SR. TOMCY MARIA.

BY ADV. SRI.P.NARAYANAN

RESPONDENTS:

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1. THE STATE OF KERALA, REP. BY
SECRETARY TO GOVERNMENT, DEPARTMENT OF REVENUE,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE TAHSILDAR,
UDUMBANCHOLA TALUK, IDUKKI DISTRICT.

BY ADV. SHRI.BASANT BALAJI, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 19640 of 2007

Dated, this the 27th day of June, 2007

J U D G M E N T

Petitioner is challenging Exts.P3 to P6 orders of assessments and demand of building tax and luxury tax in respect of a building which according to the petitioner is a convent. A convent is a building used by nuns for their residence, prayers and other purposes associated with religion. In some convents, they are running educational institutions like kinder garden, nursery school, primary school etc. Neither a convent used as residence of nuns nor a school can be assessed under the building tax act, as both the purposes qualify the building for exemption. The dispute arose because the 2nd respondent neither conducted any local inspection nor issued a proper adjudication order giving reasons in support of the assessment and demand of tax. This WP(C) is accordingly disposed of directing 2nd respondent to conduct a local inspection of the building, satisfying himself about the nature of use of the building and every part thereof, and to grant exemption for such of the areas used for residence of the nuns, prayer hall, chappel etc.

and for running any nursing school or training centre. However, if any portion of the building is let out for rent or used for commercial purposes, tax would be levied for such portions. Tahsildar is directed to issue speaking order either granting exemption or declining the same based on valid reasons within three months from the date of production of a copy of this judgment. No recovery proceedings should be taken for recovery of tax or luxury tax until fresh orders are issued and as and when fresh orders are issued, he will recall the existing order.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg